

REMARKS

Claims 1 – 34 remain in connection with the present application. Claims 1 and 17 are the sole remaining independent claims in connection with the present application.

Prior Art Rejections

The Examiner has rejected claims 1 – 16 under 35 U.S.C. § 102(e) as being anticipated by Axe et al. This rejection is respectfully traversed.

Applicants acknowledge the Examiner's arguments set forth in the Office Action of April 22, 2003, although Applicants do not necessarily agree with these arguments for at least the reasons previously set forth in the Amendment of March 26, 2003. In an effort to expedite prosecution in connection with the present application and in an effort to further distinguish the present application from Axe et al., Applicants have amended independent claims 1 and 17 to clarify that at least three parameters are captured and evaluated, wherein the at least three parameters include respiratory pressure, respiratory flow, and respiratory impedance. Support for this amendment can be found on at least page 3, first full paragraph and page 6, last full paragraph (regarding respiratory pressure and respiratory flow) and on at least page 9, first full paragraph et al. (regarding respiratory impedance). This support can also be found on at least page 4, last paragraph of the original German patent documents (for respiratory pressure and respiratory flow), and at least page 14, last paragraph of the original German patent document (for respiratory impedance).

Accordingly, although Applicants believe that the claims in their previous form were patentable over Axe et al., Applicants have amended each of independent claims 1 and 17 in an effort to even further distinguish from Axe et al. None of the prior art of record, including Axe et al., teach the analysis of all three respiratory parameters which can be evaluated directly or

indirectly. The analysis of all three respiratory parameters supports an optimal control of the respirator device because it is possible to recognize all relevant respiratory conditions of the patient.

Accordingly, withdrawal of the Examiner's rejection and allowance of each of claims 1 – 34 in connection with the present application is earnestly solicited. Again, rejoinder of claims 17 – 34 is respectfully requested.

Entry of this Amendment After-Final

Applicants respectfully request entry of this Amendment After-Final in that it is believed to place the claims in a clearly allowable form. Accordingly, entry of this Amendment After-Final is respectfully requested.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1 – 34 in connection with the present application is earnestly solicited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicants hereby petition for a **three (3) month** extension of time for filing a reply to the outstanding Office Action and submit the required **\$950.00** extension fee along with the concurrently filed Notice of Appeal submitted in connection with the present application.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number of the listed below.

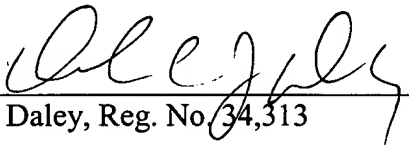
If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any

additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY, & PIERCE, P.L.C.

By


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Attachments: Notice of Appeal;
Fee payment.